

Assembly Bill No. 1423

Passed the Assembly July 21, 2003

Chief Clerk of the Assembly

Passed the Senate July 17, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Sections 11500, 11502, and 11504 of, and to add Section 11502.5 to, the Business and Professions Code, and to amend Section 1363.5 of the Civil Code, relating to common interest development managers, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1423, Dutra. Common interest development managers.

Existing law defines a certified common interest development manager and requires a person who provides or contemplates providing the services of a common interest development manager to disclose specified information to the board of directors of the community association.

This bill would revise the disclosure related to the manager's certification and education.

Existing law requires a person, in order to be called a "certified common interest development manager" to have either passed an examination or achieved certification designated by a professional association for community association managers within the previous 5 years and to have satisfied other specified educational requirements.

This bill would, for the purpose of permitting a person to be called a certified common interest development manager, instead require that the person within 5 years prior to July 1, 2004, receive instruction in California law and prior to July 1, 2003, have passed an examination or been granted certification or designation by a professional association for common interest development managers. The bill would also revise and recast various provisions regarding common interest development managers.

Existing law requires a common interest development association to file articles of incorporation with the Secretary of State and requires the articles to contain specified information, including whether the association's managing agent is certified.

This bill would delete the requirement that the articles disclose whether the association's managing agent is certified.

This bill would declare that it is to take effect immediately as an urgency statute.



The people of the State of California do enact as follows:

SECTION 1. Section 11500 of the Business and Professions Code is amended to read:

11500. For purposes of this chapter, the following definitions apply:

(a) “Common interest development” means a residential development identified in subdivision (c) of Section 1351 of the Civil Code.

(b) “Community association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development. A community association is an “association” as defined in subdivision (a) of Section 1351 of the Civil Code.

(c) “Financial services” means an act performed or offered to be performed, for compensation, for a community association including, but not limited to, the preparation of internal unaudited financial statements, internal accounting and bookkeeping functions, billing of assessments, and related services.

(d) “Management services” means an act performed or offered to be performed in an advisory capacity for a community association including, but not limited to, the following:

(1) Administering or supervising the financial or common area assets of a community association or common interest development, at the direction of the community association’s governing body.

(2) Implementing resolutions and directives of the board of directors of the community association elected to oversee the operation of a common interest development.

(3) Implementing provisions of governing documents, as defined in Section 1351 of the Civil Code, which govern the operation of the community association or common interest development.

(4) Administering a community association’s contracts, including insurance contracts, within the scope of the community association’s duties or with other common interest development managers, vendors, contractors, and other third-party providers of goods and services to a community association or common interest development.

(e) “Professional association for common interest development managers” means an organization that meets all of the following:

(1) Has at least 200 members or certificants who are common interest development managers in California.

(2) Has been in existence for at least five years.

(3) Operates pursuant to Section 501(c) of the Internal Revenue Code.

(4) Certifies that a common interest development manager has met the criteria set forth in Section 11502 without requiring membership in the association.

(5) Requires adherence to a code of professional ethics and standards of practice for certified common interest development managers.

SEC. 2. Section 11502 of the Business and Professions Code is amended to read:

11502. In order to be called a “certified common interest development manager,” the person shall meet one of the following requirements:

(a) Prior to July 1, 2003, has passed a knowledge, skills, and aptitude examination as specified in Section 11502.5 or has been granted a certification or a designation by a professional association for common interest development managers, and who has, within five years prior to July 1, 2004, received instruction in California law pursuant to paragraph (1) of subdivision (b).

(b) On or after July 1, 2003, has successfully completed an educational curriculum that shall be no less than a combined 30 hours in coursework described in this subdivision and passed an examination or examinations that test competence in common interest development management in the following areas:

(1) Instruction in California law that is related to the management of common interest developments, including, but not limited to, the following courses of study:

(A) The topics covered by the Davis-Stirling Common Interest Development Act, contained in Sections 1350 to 1376, inclusive, of the Civil Code, including, but not limited to, the types of California common interest developments, disclosure requirements pertaining to common interest developments, meeting requirements for community association boards of



directors and members, financial disclosure and reporting requirements, and access to community association records.

(B) Personnel issues, including, but not limited to, general matters related to independent contractor or employee status, issues related to types of harassment, the Unruh Civil Rights Act, fair employment laws, and the Americans with Disabilities Act.

(C) Risk management as it pertains to common interest development, including, but not limited to, required insurance coverage and preventative maintenance programs.

(D) Property protection, including, but not limited to, general matters relating to hazardous materials such as asbestos, radon, and lead, the Vehicle Code, local and municipal regulations, family day care homes, energy conservation, Federal Communications Commission rules and regulations, and solar energy systems.

(E) The business affairs of community associations, including, but not limited to, necessary compliance with all required local, state, and federal laws and treatises.

(F) Basic understanding of governing documents, codes, and regulations relating to the activities and affairs of community associations and common interest developments.

(2) Instruction in general management that is related to the managerial and business skills needed for management of a common interest development, including, but not limited to, the following:

(A) Finance issues, including, but not limited to, budget preparation, management, and administration of community association financial affairs, bankruptcy laws, and assessment collection activities.

(B) Contract negotiation and administration.

(C) Supervision of common interest development employees and staff.

(D) Management of common interest development maintenance programs.

(E) Management and administration of rules, regulations, parliamentary procedures, and architectural standards pertaining to community associations and common interest developments.

(F) Management and administration of common interest development recreational programs and facilities.



(G) Management and administration of owner and resident communications.

(H) Training and strategic planning for the community association's board of directors and committees, and other activities of residents in a common interest development.

(I) Risk management as it pertains to common interest development properties, activities, and emergency preparedness.

(J) Implementation of community association policies and procedures.

(K) Ethics for common interest development managers.

(L) Professional conduct and standards of practice for common interest development managers.

(M) Current issues relating to common interest developments.

SEC. 3. Section 11502.5 is added to the Business and Professions Code, to read:

11502.5. The course related competency examination or examinations and education provided to a certified common interest development manager pursuant to Section 11502 by any professional association for common interest development managers, or any postsecondary educational institution, shall be developed and administered in a manner consistent with standards and requirements set forth by the American Educational Research Association's "Standards for Educational and Psychological Testing," and the Equal Employment Opportunity Commission's "Uniform Guidelines for Employee Selection Procedures," the Civil Rights Act of 1991, and the Americans with Disabilities Act of 1990, or the course or courses that have been approved as a continuing education course or an equivalent course of study pursuant to the regulations of the Real Estate Commissioner.

SEC. 4. Section 11504 of the Business and Professions Code is amended to read:

11504. On or before September 1, 2003, and on an annual basis thereafter, a person who either provides or contemplates providing the services of a common interest development manager to a community association shall disclose to the board of directors of the community association the following information:

(a) Whether or not the common interest development manager has met the requirements of Section 11502 so he or she may be called a certified common interest development manager.



(b) The name, address, and telephone number of the professional association that certified the common interest development manager, the date the manager was certified, and the status of the certification.

(c) The location of his or her primary office.

(d) Prior to entering into or renewing a contract with a community association, the common interest development manager shall disclose to the governing board of the community association whether the fidelity insurance of the community manager or his or her employer covers the operating and reserve funds of the community association. This requirement may not be construed to compel or require a community association or common interest development manager to require fidelity insurance.

(e) Possession of an active real estate license, if applicable.

This section may not preclude a common interest development manager from disclosing information as required in Section 1363.1 of the Civil Code.

SEC. 5. Section 1363.5 of the Civil Code is amended to read:

1363.5. (a) The articles of incorporation of a common interest development association filed with the Secretary of State on or after January 1, 1995, shall include a statement, which shall be in addition to the statement of purposes of the corporation, that does all of the following:

(1) Identifies the corporation as an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.

(2) States the business or corporate office of the association, if any, and, if the office is not on the site of the common interest development, states the nine-digit ZIP Code, front street, and nearest cross street for the physical location of the common interest development.

(3) States the name and address of the association's managing agent, as defined in Section 1363.1, if any.

(b) The statement of principal business activity contained in the annual statement filed by an incorporated association with the Secretary of State pursuant to Section 1502 of the Corporations Code shall also contain the statement specified in subdivision (a).

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety



within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to revise the requirements for a certified common interest development manager as soon as possible in order to better protect the public, it is necessary that this act go into immediate effect.



Approved _____, 2003

Governor

